

ORIGINAL

OPEN MEETING



0000153057

MEMORANDUM

TO: THE COMMISSION

Arizona Corporation Commission

DOCKETED

FROM: Utilities Division

APR 28 2014

DATE: April 28, 2014

DOCKETED BY

RECEIVED

2014 APR 28 P 2:31

AZ CORP COMMISSION
DOCKET CONTROL

RE: IN THE MATTER OF THE JOINT APPLICATION OF AT&T CORP., TELEPORT COMMUNICATIONS SERVICES, LLC, SBC LONG DISTANCE, LLC, BELL SOUTH LONG DISTANCE, INC. AND SNET AMERICA, INC. FOR APPROVAL OF A WAIVER OF COMMISSION RULE A.A.C. R14-2-1115.C.3. (CONTRACT FILING RULE) (DOCKET NOS. T-20872A-14-0033, T-20874A-14-0033, T-03346A-14-0033, T-03287A-14-0033 AND T-03116A-14-0033)

Introduction

On February 3, 2014, AT&T Corp., Teleport Communications America, LLC, SBC Long Distance, LLC, Bell South Long Distance, Inc. and SNET America, Inc. (together, "the AT&T Companies" or "the Applicants") filed a Joint Application with the Arizona Corporation Commission ("Commission") requesting a waiver of the filing requirement contained in Arizona Administrative Code ("A.A.C.") R14-2-1115.C.3 ("Contract Filing Rule"), subject to the condition that the Applicants will provide contracts to Commission Staff at any time upon request.

Background

A.A.C. R14-2-1115.C states, "Each telecommunications company governed by this Article shall file with the Commission current tariffs, price levels, and contracts that comply with the provisions of this Article and with all Commission rules, orders, and all other requirements imposed by the laws of the state of Arizona."

A.A.C. R14-2-1115.C.3 states, "Contracts of telecommunications companies governed by this Article shall be filed with the Commission not later than five business days after execution. If the contract includes both competitive and noncompetitive services, it must be filed at least five business days prior to the effective date of the contract and must separately state the tariffed rate for the noncompetitive services and the price for the competitive services."

A.A.C. R14-2-1115.I states, "The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 11) upon the verified Application of an affected party. The Application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply."

Staff's Analysis

As described below, the Applicants state that as competitive providers, they experience the same issues regarding compliance with the Contract Filing Rule that Cox Arizona Telcom, LLC ("Cox")¹ presented in its application, and the Commission cited, for a waiver from the Contract Filing Rule:

- (i) Confusion exists regarding the requirement to file Individual Case Basis ("ICB") contracts,
- (ii) Numerous Basic Services Arrangements, Commercial Service Agreements, ICBs and other contracts may have to be filed pursuant to A.A.C. R14-2-1115.C.3, depending on the Commission's interpretation of "contract",
- (iii) The administrative time and cost of filing and securing confidential contracts by Staff and the Applicants are burdensome,
- (iv) To date, no carrier has raised a dispute regarding ICBs,
- (v) A.A.C. R14-2-1115.C.3 has created little direct public benefit in regards to ICBs; and
- (vi) The Commission has the authority to ask for any contract if issues are brought to the Commission's attention regardless of whether any contracts have been filed pursuant to A.A.C. R14-2-1115.C.3.

The Applicant's waiver request seeks only relief from Subsection C.3 relative to the filing of contracts.

The Applicants state that similar applications from other telecommunications providers have also been considered by the Commission and waivers have been granted.²

As stated in the application, the Applicants hold Certificates of Convenience and Necessity ("CC&Ns") to provide competitive local exchange and interexchange telecommunications services within the State of Arizona. As competitive providers, the Applicants are subject to the administrative requirement of A.A.C. R14-2-1115.C.3 to file contracts it enters for providing competitive services.

On November 21, 2012, the Commission granted Cox a waiver regarding the filing of ICBs per R14-2-1115.C.3, subject to the condition that the Applicant be required to provide its ICB contracts to Commission Staff, at any time, upon request, in Decision No. 73579. In addition, on February 6, 2013, the Commission granted CenturyLink a similar waiver in Decision No. 73648.

The Applicants state that the same reasons supporting the waivers granted by the Commission identified above support this request by the AT&T Companies.

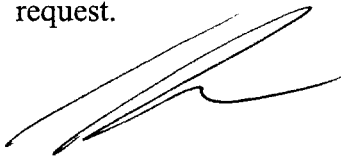
¹ *In the Matter of the Application of Cox Arizona Telcom, LLC for an Exemption from Commission Rule A.A.C. R14-2-1115.C.3*, ACC Docket No. T-03471A-11-0256.

² Qwest Corporation ("CenturyLink Companies"), Decision No. 73648, dated February 6, 2013; tw telecom of arizona llc, Decision No. 73773, dated March 21, 2013; XO Communications Services, LLC, Decision No. 73916, dated June 27, 2013; and MCI Communications Services, Inc., Decision No 74301, dated January 29, 2014.

Staff's Recommendations

Staff recognizes that the telecommunications industry has evolved significantly since these Commission rules were adopted. The need no longer exists today, in Staff's opinion, to require carriers to file these contracts within five (5) days of their execution.

Staff believes that a conditional waiver of the ICB contract filing requirement is appropriate. As requested by the Applicants, Staff recommends the waiver be subject to the condition that the Applicants provide their ICB contracts to Commission Staff, at any time, upon request.

A handwritten signature in black ink, appearing to read 'Steven M. Olea', with a stylized flourish at the end.

Steven M. Olea
Director
Utilities Division

SMO:PJG:sms\MAS

ORIGINATOR: Pamela J. Genung

BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP

Chairman

GARY PIERCE

Commissioner

BRENDA BURNS

Commissioner

BOB BURNS

Commissioner

SUSAN BITTER SMITH

Commissioner

IN THE MATTER OF THE JOINT
APPLICATION OF AT&T CORP.,
TELEPORT COMMUNICATIONS
SERVICES, LLC, SBC LONG DISTANCE,
LLC, BELL SOUTH LONG DISTANCE,
INC. AND SNET AMERICA, INC. FOR
APPROVAL OF A WAIVER OF
COMMISSION RULE A.A.C. R14-2-
1115.C.3. (CONTRACT FILING RULE)

DOCKET NO. T-20872A-14-0033

DOCKET NO. T-20874A-14-0033

DOCKET NO. T-03346A-14-0033

DOCKET NO. T-03287A-14-0033

DOCKET NO. T-03116A-14-0033

DECISION NO. _____

ORDER

Open Meeting
May 13 and 14, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. AT&T Corp., Teleport Communications America, LLC, SBC Long Distance, LLC, Bell South Long Distance, Inc. and SNET America, Inc. (together, "the AT&T Companies" or "the Applicants") are certificated to provide intrastate telecommunications services as public service corporations in the State of Arizona.

Introduction

2. On February 3, 2014, the Applicants filed a Joint Application with the Arizona Corporation Commission ("Commission") requesting a waiver of the filing requirement contained in Arizona Administrative Code ("A.A.C.") R14-2-1115.C.3 ("Contract Filing Rule"), subject to

...

1 the condition that the Applicants will provide contracts to the Commission Staff at any time upon
2 request.

3 Background

4 3. A.A.C. R14-2-1115.C states, "Each telecommunications company governed by this
5 Article shall file with the Commission current tariffs, price levels, and contracts that comply with
6 the provisions of this Article and with all Commission rules, orders, and all other requirements
7 imposed by the laws of the state of Arizona."

8 4. A.A.C. R14-2-1115.C.3 states, "Contracts of telecommunications companies
9 governed by this Article shall be filed with the Commission not later than five business days after
10 execution. If the contract includes both competitive and noncompetitive services, it must be filed
11 at least five business days prior to the effective date of the contract and must separately state the
12 tariffed rate for the noncompetitive services and the price for the competitive services."

13 5. A.A.C. R14-2-1115.I states, "The Commission may consider variations or
14 exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2,
15 Article 11) upon the verified Application of an affected party. The Application must set forth the
16 reasons why the public interest will be served by the variation or exemption from the Commission
17 rules and regulations. Any variation or exemption granted shall require an order of the
18 Commission. Where a conflict exists between these rules and an approved tariff or order of the
19 Commission, the provisions of the approved tariff or order of the Commission shall apply."

20 Staff's Analysis

21 6. As described below, the Applicants state that as competitive providers, they
22 experience the same issues regarding compliance with the Contract Filing Rule that Cox Arizona
23 Telcom, LLC ("Cox")¹ presented in its application, and the Commission cited, for a waiver from
24 the Contract Filing Rule:

- 25 (i) Confusion exists regarding the requirement to file Individual Case Basis ("ICB")
26 contracts,

27
28 ¹ *In the Matter of the Application of Cox Arizona Telcom, LLC for an Exemption from Commission Rule A.A.C. R14-2-1115.C.3*, ACC Docket No. T-03471A-11-0256.

- 1 (ii) Numerous Basic Services Arrangements, Commercial Service Agreements, ICBs
2 and other contracts may have to be filed pursuant to A.A.C. R14-2-1115.C.3,
3 depending on the Commission's interpretation of "contract",
4 (iii) The administrative time and cost of filing and securing confidential contracts by
5 Staff and the Applicants are burdensome,
6 (iv) To date, no carrier has raised a dispute regarding ICBs,
7 (v) A.A.C. R14-2-1115.C.3 has created little direct public benefit in regards to ICBs;
8 and
9 (vi) The Commission has the authority to ask for any contract if issues are brought to
10 the Commission's attention regardless of whether any contracts have been filed
11 pursuant to A.A.C. R14-2-1115.C.3

12 7. The Applicant's waiver request seeks only relief from Subsection C.3 relative to the
13 filing of contracts.

14 8. The Applicants state that similar applications from other telecommunications
15 providers have also been considered by the Commission and waivers have been granted.²

16 9. As stated in the application, the Applicants hold Certificates of Convenience and
17 Necessity ("CC&Ns") to provide competitive local exchange and interexchange
18 telecommunications services within the State of Arizona. As competitive providers, the
19 Applicants are subject to the administrative requirement of A.A.C. R14-2-1115.C.3 to file
20 contracts it enters for providing competitive services.

21 10. On November 21, 2012, the Commission granted Cox a waiver regarding the filing
22 of ICBs per R14-2-1115.C.3, subject to the condition that the Applicant be required to provide its
23 ICB contracts to Commission Staff, at any time, upon request, in Decision No. 73579. In addition,
24 on February 6, 2013, the Commission granted CenturyLink a similar waiver in Decision No.
25 73648.

26 11. The Applicants state that the same reasons supporting the waivers granted by the
27 Commission identified above support this request by the AT&T Companies.

28 ...

...

...

² Qwest Corporation ("CenturyLink Companies"), Decision No. 73648, dated February 6, 2013; tw telecom of arizona llc, Decision No. 73773, dated March 21, 2013; XO Communications Services, LLC, Decision No. 73916, dated June 27, 2013; and MCI Communications Services, Inc., Decision No 74301, dated January 29, 2014.

1 Staff's Recommendations

2 12. Staff recognizes that the telecommunications industry has evolved significantly
3 since these Commission rules were adopted. The need no longer exists today, in Staff's opinion,
4 to require carriers to file these contracts within five (5) days of their execution.

5 13. Staff believes that a conditional waiver of the ICB contract filing requirement is
6 appropriate. As requested by the Applicants, Staff recommends the waiver be subject to the
7 condition that the Applicants provide their ICB contracts to Commission Staff, at any time, upon
8 request.

9 CONCLUSIONS OF LAW

10 1. AT&T Corp., Teleport Communications America, LLC, SBC Long Distance, LLC,
11 Bell South Long Distance, Inc. and SNET America, Inc. are public service corporations within the
12 meaning of Article XV of the Arizona Constitution.

13 2. The Commission has jurisdiction over AT&T Corp., Teleport Communications
14 America, LLC, SBC Long Distance, LLC, Bell South Long Distance, Inc., SNET America, Inc.
15 and the subject matter in this filing.

16 3. The Commission, having reviewed the filing and Staff's Memorandum dated April
17 28, 2014, concludes that it is in the public interest to grant approval as proposed and discussed
18 herein.

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

ORDER

IT IS THEREFORE ORDERED that the Joint Application of AT&T Corp., Teleport Communications America, LLC, SBC Long Distance, LLC, Bell South Long Distance, Inc. and SNET America, Inc. seeking a waiver of the filing requirement contained in A.A.C. R14-2-1115.C.3, be and hereby is approved subject to the condition that the Applicants will provide their ICB contracts to the Commission Staff, at any time upon request.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT: _____

DISSENT: _____

SMO:PJG:sms\MAS

1 SERVICE LIST FOR: AT&T CORP., TELEPORT COMMUNICATIONS SERVICES, LLC,
2 SBC LONG DISTANCE, LLC, BEL SOUTH LONG DISTANCE, INC. AND SNET AMERICA,
3 INC.

4 DOCKET NOS. T-20872A-14-0033, T-20874A-14-0033, T-03346A-14-0033, T-03287A-14-0033
5 AND T-03116A-14-0033

6 Mr. Michael M. Grant
7 Gallagher & Kennedy, P.A.
8 Attorneys for the AT&T Companies
9 2575 East Camelback Road
10 Phoenix, Arizona 85016-9225

11 Mr. Steven M. Olea
12 Director, Utilities Division
13 Arizona Corporation Commission
14 1200 West Washington Street
15 Phoenix, Arizona 85007

16 Ms. Janice M. Alward
17 Chief Counsel, Legal Division
18 Arizona Corporation Commission
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21 Ms. Lyn Farmer
22 Chief Administrative Law Judge, Hearing Division
23 Arizona Corporation Commission
24 1200 West Washington Street
25 Phoenix, Arizona 85007